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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 CALIFORNIA DEPARTMENT OF
11 TOXIC SUBSTANCES CONTROL,

12 Plaintiff,

CIV-S-02-0018 GEB/JFM/GGH

13 vs.

14 BRIGHTON OIL COMPANY, et al.,

15 Defendants.

ORDER

16
17 All non-fully dismissed parties and their counsel are directed to appear for
18 settlement conferences as follows:

19 1. February 25 and 26, 2008 at 10:00 a.m.: Attorneys and their clients with full
20 authority to make settlement decisions, and all pro per parties (insurance representatives may
appear on behalf of the parties if they so desire);

21 2. February 27, 2008 at 10:00 a.m.: The oversight committee, Department of
22 Toxic Substances Control ("DTSC") and its attorneys;

23 3. March 3 and 4, 2008 at 10:00 a.m.: Attorneys and their clients with full
24 authority to make settlement decisions, all pro per parties, insurance carrier representatives for all
parties with any type of potential insurance coverage, with full authority to make settlement
decisions, DTSC and their attorneys.

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1 “All parties” include those non-dismissed parties who elected to be
2 “nonparticipating” in the settlement process up to this point. See Participation Memorandum of
3 November 19, 2003.

4 These settlement conferences are scheduled pursuant to the November 4, 2003
5 Settlement Process Order, and specifically Stages II and III referenced therein. While the draft
6 Remedial Action Plan (“RAP”) awaits public comment, and then final approval by DTSC, the
7 settlement conferences can proceed based on the draft RAP. Final settlement will be contingent
8 upon the approval of a final RAP.

9 The settlement conference will begin with the parties organized in accordance
10 with the groups identified in the settlement process order as modified herein. The groups will
11 facilitate the court in working with the parties. The court may consider a different settlement
12 discussion structure during the course of the settlement conferences if necessary.

13 Notwithstanding the above, all settlement conference participants shall initially
14 meet for a joint session on February 25, 2008 at 10:00 a.m. at the commencement of the
15 conference to be updated on the events involving public comment, offers all groups might wish
16 to consider and other informational issues pertinent to the groups as a whole.

17 For settlement purposes the groups are as follows:

- 18 1. Owners’ Group:
19 Kester
20 McDuffee
21 Mid-Valley Development
22 Shankar
23 Stone
24 White Rock & Kilgore LLC
- 25 2. Arrangers’ Group:
26 Aerojet
Atlantic Richfield
Chevron U.S.A. Inc.
City of Sacramento
City of Roseville
County of Sacramento
Ellsworth Harrold
Exxon Mobil

1 FB Hart
International Truck
2 John L. Sullivan
Petroleum Tank Line
3 PG&E
R.L. Niello
4 Shell Oil
SMUD
5 State Agencies (CHP, Caltrans, State Garage)
Suburban Motors
6 Teichert, Inc.
Texaco Inc.
7 Turner Motors
Union Oil Company of California
8 Union Pacific Railroad
United States Air Force
9 Valley Livestock

10 Previously and currently identified non-participating parties (as set forth below) shall join the
11 Other Arrangers group:

12 Keil Enterprises
13 Maita Oldsmobile

14 A schedule shall be set for group meetings with the undersigned. The groups shall
15 be timely in their appearance at the specified time. As we approach settlement, the timing
16 between group meetings will become less and less.

17 The major issues for settlement include whether to settle on a per capita basis (i.e.,
18 total remediation costs are divided by the number of parties), a basis where individual equitable
19 factors are assessed, or a hybrid of the two. Also important to final resolution is a determination
20 of generator status and details governing those parties who will remain responsible for
21 implementing the remedy in the approved RAP, for any further monitoring, and work to be
22 performed in later years, assuming an improbable event which would necessitate any further
23 work to be performed.

24 All parties shall serve their settlement conference statements on Judge Hollows in
25 his chambers and on the other parties in the litigation 10 days prior to the date of the settlement
26 conference. The statements shall be based upon as much informal contact within and without the

1 individual groups as possible. If it is possible for a group to prepare and serve a consolidated
2 settlement conference statement containing group agreements, it is advisable to do so. Except for
3 statements on behalf of a group, the statements shall be no greater in length than five pages. No
4 more than ten pages of exhibits may be served along with the settlement conference statements.

5 In assessing settlement issues, including an attorney's belief that his client might
6 prevail in adjudication, each attorney, client and carrier shall reflect upon the statement of King
7 Pyrrhus of Epirus after the battle of Heraclea in 280 BC (with the Romans): Another such
8 victory and I am ruined. Equating the Romans to the court or the prosecuting agency in this case,
9 we all know what happened to the Romans afterwards in terms of their many centuried existence,
10 but who remembers the "bankrupt" kingdom of Epirus?

11 DATED: 1/3/08

/s/ Gregory G. Hollows

12
13 GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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brighton.scdade
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